

AMENDED IN SENATE JUNE 1, 2010
AMENDED IN SENATE APRIL 28, 2010
AMENDED IN SENATE APRIL 19, 2010
AMENDED IN SENATE APRIL 5, 2010

SENATE BILL

No. 1157

Introduced by Senator DeSaulnier

February 18, 2010

An act to add Section 17615 to the Education Code, relating to pesticides.

LEGISLATIVE COUNSEL'S DIGEST

SB 1157, as amended, DeSaulnier. Education: Healthy Schools Act of 2010.

(1) Existing law generally regulates pesticide use and requires the Department of Pesticide Regulation to promote and facilitate the voluntary adoption of integrated pest management by school districts.

This bill, ~~the Healthy Schools Act of 2010~~ *commencing when specified funds are made available*, would prohibit ~~all~~ public schools from using *any of* the most highly toxic pesticides, as ~~listed~~ *defined*, on school property. ~~This bill would provide that its provisions would not apply to antimicrobial pesticides, products deployed in the form of a self-contained bait or trap, or as a crack and crevice treatment, agricultural uses, or activities undertaken by participants in agricultural vocational education, except as specified.~~

The bill would authorize the coordinator of the integrated pest management program, or a school designee, as specified, to use the most highly toxic pesticides ~~of~~ *if* the requirements of the Healthy

Schools Act of 2000 are met. Because the bill would impose new duties on school districts, it would impose a state-mandated local program.

This bill would require the Department of Pesticide Regulation, beginning January 1, ~~2011~~ 2012, and annually thereafter, to set an adequate fee on manufacturers or importers of the most highly toxic pesticides, as defined. ~~The bill would require department to set the fee in an amount that is sufficient and limited to reimburse the department for the cost of administering, and school districts for the costs of implementing, this act~~ *The bill would require the department to develop and adopt regulations to establish the amount of the fee, as specified.*

~~This bill would require the department to adopt regulations to establish the amount of the fee, as specified.~~

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature hereby finds and declares
- 2 all of the following:
- 3 (1) Pesticides have been linked to numerous acute and chronic
- 4 illnesses, including cancer and asthma.
- 5 (2) Because children's bodies and brains are still developing,
- 6 exposure to pesticides can have detrimental and irreversible effects.
- 7 (3) Recognizing the impact of pesticides on the school
- 8 community, the Department of Pesticide Regulation has developed
- 9 an Internet Web site, written training materials, and conducted
- 10 regional training sessions to assist schools that have chosen to
- 11 adopt least-toxic integrated pest management techniques and to
- 12 eliminate use of the most dangerous pesticides.
- 13 (4) However, many California public schools continue to use
- 14 highly toxic pesticides.

1 (5) It is necessary to take precautionary measures to protect the
2 health and safety of California schoolchildren and teachers, and
3 better ensure a safe learning and working environment.

4 (b) This act shall be known, and may be cited, as the Healthy
5 Schools Act of 2010.

6 SEC. 2. Section 17615 is added to the Education Code, to read:

7 17615. (a) ~~No public school may use~~ *Commencing when funds*
8 *are made available pursuant to subdivision (g), a public school*
9 *shall not use any of the most highly toxic pesticides on school*
10 *property unless the pest problem to be addressed cannot be*
11 *effectively managed with a lower risk pesticide.*

12 (b) For purposes of this section, “most highly toxic pesticides”
13 means *any of the following* :

14 (1) Pesticide products that are neurotoxic organophosphorus
15 compounds, containing N-methyl-carbamate or cholinesterase
16 inhibitors, as designated by the Materials Data Sheet of the
17 Department of Pesticide Regulation, for the particular chemical.

18 (2) Pesticide products containing active ingredients rated by the
19 United States Environmental Protection Agency as A or B
20 carcinogens or substances listed as, known or probable human
21 carcinogens as designated by the International Agency for Research
22 for Cancer, the United States Environmental *Protection* Agency,
23 the United States National Toxicology Program, or pursuant to the
24 Safe Drinking Water and Toxics Enforcement Act of 1986, and
25 are likely to be human carcinogens, or suggestive of being human
26 carcinogens, as described in the “List of Chemicals Evaluated for
27 Carcinogenic Potential,” or known to the state to cause cancer as
28 listed pursuant to the California Safe Drinking Water Act (Chapter
29 4 (commencing with Section 116270) of Part 12 of Division 104
30 of the Health and Safety Code).

31 (3) Pesticide products containing active ingredients that cause
32 birth defects, reproductive harm, or developmental harm as
33 identified by the United States Environmental Protection Agency
34 or listed pursuant to the California Safe Drinking Water Act
35 (Chapter 4 (commencing with Section 116270) of Part 12 of
36 Division 104 of the Health and Safety Code) or as designated
37 pursuant to the Safe Drinking Water and Toxics Enforcement Act
38 of 1986.

39 (4) Pesticide products with high acute toxicity as defined by the
40 United States Environmental Protection Agency in Toxicity

Categories I and II, as defined in Part 156.62 of Title 40 of the Code of Federal Regulations, or designated by the World Health Organization or the United States National Toxicology Program.

(c) In the case of an emergency condition as defined in subdivision (c) of Section 17609, the coordinator of the integrated pest management program, if the school district has established an integrated pest management program, or the school district designee, as defined in subdivision (d) of Section 17609, may permit the use of the most highly toxic pesticide if the provisions of the Healthy Schools Act of 2000 (Article 17 (commencing with Section 13180) of Chapter 2 of Division 7 of the Food and Agricultural Code) are met.

(d) This section does not apply to any of the following:

(1) Sanitizers and disinfectants.

(2) Pesticide products deployed in the form of a self-contained bait or trap.

(3) Gels or pastes deployed as crack and crevice treatment. “Crack and crevice treatment” means the application of small quantities of a pesticide, consistent with labeling instructions, in a building into openings such as those commonly found at expansion joints, between levels of construction, and between equipment and floors.

(4) Activities undertaken at a school by participants in the state program of agricultural vocational education, pursuant to Article 7 (commencing with Section 52450) of Chapter 9 of Part 28 of Division 4 of Title 2, if the activities are necessary to meet the curriculum requirements prescribed in Section 52454. Nothing in this subdivision relieves schools participating in the state program of agricultural vocational education of any duties pursuant to this section for activities that are not directly related to the curriculum requirements of Section 52454.

(5) Agricultural uses.

(e) This section does not abrogate the authority of county health officers, the Department of Food and Agriculture, mosquito and vector control districts, the State Department of Public Health, or other state agencies that are responsible for pest management decisions that may affect public schools in California.

(f) This section does not preclude a school district from adopting stricter pesticide use policies or from enforcing stricter policies that have already been adopted.

(g) (1) A fund is hereby established in the State Treasury to be known as the Healthy Schools Act of 2010 Fund. Moneys deposited in this fund may be expended by the Director of Pesticides Regulation upon appropriation by statute, for the purposes of implementing this section.

(2) The Department of Pesticide Regulation shall, beginning January 1, ~~2011~~ 2012, and annually thereafter, set the amount of a fee on manufacturers or importers of the most highly toxic pesticides, as defined by this section, that the department determines to be sufficient and limited to reimburse the department for the cost of administering the Healthy Schools Act of 2010, and reimburse local agencies and school districts for costs of implementing this section.

(3) ~~The department shall develop~~ *Department of Pesticide Regulation shall develop and adopt* regulations to establish the amount of the fee ~~adequate to support an adequate fee for purposes of this section. The regulations adopted pursuant to this section, or any amendment thereto, shall be adopted by the department~~ *department shall adopt regulations for purposes of this subdivision* in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. ~~However, the~~ *The* adoption, amendment, readoption, or repeal of these regulations shall be considered by the Office of Administrative Law as an emergency, and necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding any other provision of law, the regulations shall remain in effect until amended by the department. The department shall make available to the public, upon the adoption of an emergency regulation establishing a new fee, the information upon which the department has calculated, based, or determined the new fee.

(4) *The Department of Pesticide Regulation shall borrow moneys from the Department of Pesticide Regulation Fund to cover the department's costs in developing and adopting regulations and establishing a fee for purposes of this subdivision. The department shall repay the loan using moneys from the Healthy Schools Act of 2010 Fund as they become available.*

(5) *The Department of Pesticide Regulation shall use the databases of all of the following public agencies and international*

1 *organizations in order to assess and identify the most highly toxic*
2 *pesticides:*

3 *(A) State Department of Health Care Services.*

4 *(B) United States Environmental Protection Agency.*

5 *(C) United States Department of Health and Human Services.*

6 *(D) National Institutes of Health.*

7 *(E) World Health Organization.*

8 *(F) International Agency for Research on Cancer.*

9 *(G) European Union.*

10 SEC. 3. If the Commission on State Mandates determines that
11 this act contains costs mandated by the state, reimbursement to
12 local agencies and school districts for those costs shall be made
13 pursuant to Part 7 (commencing with Section 17500) of Division
14 4 of Title 2 of the Government Code.